

Appln No. 10/571,985
Amdt date June 16, 2010
Reply to Office action of March 30, 2010

REMARKS/ARGUMENTS

Claims 19-42 are pending in the above-referenced application.

Claims 19, 29 and 38 have been amended to further define Applicant's invention. New claim 42 has been added. Support for the amendments can be found, among other places, in originally filed figures 1 and 3. No new matter has been added.

This is a response to the Office Action dated March 30, 2010 wherein the Examiner rejected: (1) claims 19-22, 24-26 and 28 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,170,712 (Kasboske); (2) claims 19 and 23 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,926,341 (Lhoest); (3) claims 29-40 under 35 U.S.C. 103(a) as being unpatentable over Kasboske in view of U.S. Patent No. 4,986,053 (Schaefer); (4) claim 41 under 35 U.S.C. 103(a) as being unpatentable over Kasboske in view of Schaefer as applied to claim 38 above, and further in view of U.S. Patent No. 4,547,900 (Larkin et al.); and (5) claim 27 under 35 U.S.C. 103(a) as being unpatentable over Kasboske in view of Larkin.

Applicant respectfully thanks the Examiner for the time and effort in preparing and issuing the instant Action.

In view of the amendments indicated above and the remarks that follow, reconsideration and a notice of allowance are respectfully solicited.

§ 102(b) Rejection of Claims 19-22, 24-26 and 28 by Kasboske

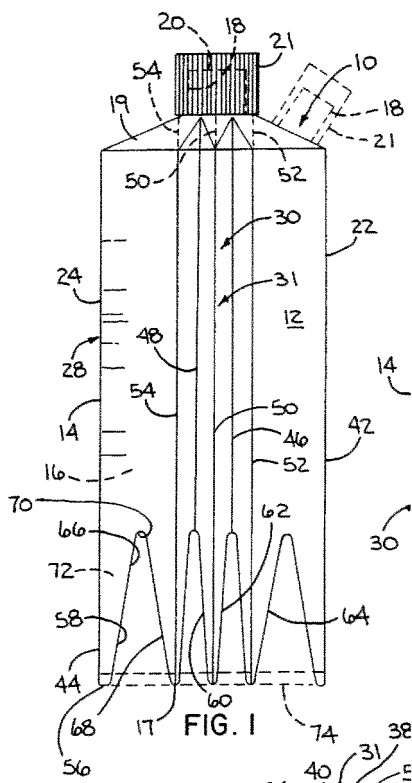
In rejecting claims 19-22, 24-26 and 28 under § 102 (b) over Kasboske, the Examiner alleges that the '712 Kasboske patent discloses all the claimed elements.

Preliminarily, for a reference to anticipate a claimed invention under § 102(b), it must adequately meet the terms of the claimed invention interpreted in light of the specification of the application. As set forth in the statute, the single prior art reference must disclose each and every element of the claim under consideration. Moreover, it cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

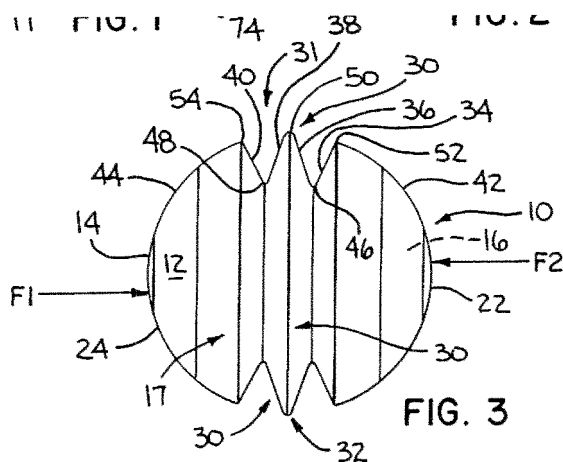
Of the rejected claims, amended independent claim 19 recites:

19. (Currently Amended) A molded container for liquid infusion, said container comprising a plurality of walls including a first side wall and a second side wall, two collapsible walls each being disposed in between the first side wall and the second side wall, a bottom wall configured for standing upright, and a shoulder portion having a port for filling fluid into or discharging fluid out of an interior cavity defined by the plurality of walls, wherein the bottom wall comprises an interior wall surface and an exterior wall surface and a fold line separating the interior wall surface into a first interior section and a second interior section; and wherein portions of the first interior section and the second interior section of the bottom wall move closer to one another and wherein portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

Thus, claim 19 makes clear that the plurality of walls of the molded container, including the first and second side walls, the two collapsible walls and the bottom wall, define an interior cavity where fluid is filled into and discharged out of. Claim 19 also makes clear that when the container collapses, portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity.



The '712 Kasboske reference discloses a container 10 for holding and dispensing a substance. The container 10 comprises a peripheral wall 14 and a bottom wall 17, which define a storage space 16 (Col. 5, lines 2-5, Fig. 1, reproduced herein). The peripheral wall 14 comprises opposing first and second wall surfaces 22 and 24, which can accommodate written material or logos (Col. 5, lines 20-34), and opposing third and fourth wall surfaces. The third and fourth wall surfaces comprise a fold structure 30, which divides the third or fourth wall surface into identical fold structure portions 31 and 32 (Col. 5, lines 44-46). The fold structure portion 31 illustrated in Fig. 3 (reproduced herein) is defined by a zigzag pattern of flat wall parts 34, 36, 38 and 40 which produce



accordion folds (Col. 5, lines 46-47). When forces F1 and F2 are applied on the first and second wall surfaces 22 and 24, the accordion folds fold against each other relative to fold lines 46, 48, 50, 52 and 54 (Col. 5, lines 52-62). The folding of the accordions folds reduces the effective volume of the space 16 and

causes the substance in the container 10 to be expelled through an opening 20 (Fig. 1, col. 5, lines 62-65). The fold lines 46, 48, 50, 52 and 54 extend over the bottom wall 17 (Col. 6, lines 3-5). As shown in Fig.1, the bottom wall 17 comprises V-shaped recesses 58, 60, 62, and 64 (Col. 6, lines 23-26). The recess 58 as illustrated in Fig. 1 (reproduced above) comprises wall parts 66 and 68 which meet at a fold line 70 (Col. 6, line 26-27). When the container 10 collapses, the second wall surface 24 moves inwardly toward the wall part 66, thereby collapsing a space 72 between the second wall surface 24 and the wall part 66; and causing the wall part 66 to move against the wall part 68 (Fig. 1, Col. 6, lines 28-34). The folding of the V-shaped recesses reduces the volume of the storage space 16, which urges the substance upwardly (Col. 6, lines 32-34).

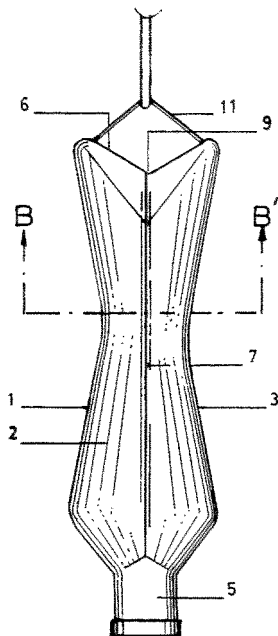
As described and as illustrated, when the container 10 collapses, the V shaped recesses of the bottom wall 17 collapse against each other in a lateral direction. However, the bottom wall 17 remains at a same distance relative to the storage space 16 of the container 10. In other words, no part of the bottom wall 17 moves outwardly away from the storage space 16 from a first position to a second position further outwardly when the container 10 collapses. Thus, the '712 Kasboske reference does not disclose a molded container wherein portions of the exterior wall surface of the bottom wall move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity, as recited in part in claim 19.

As the '712 Kasobske reference fails to disclose each and every element of claim 19, it fails to anticipate claim 19 under § 102(b). Since claims 20-22, 24-26 and 28 depend either directly or indirectly from claim 19, they too are allowable for at least the same reason.

§ 102(b) Rejection of Claims 19 and 23 by Lhoest

In rejecting claims 19 and 23 under § 102 (b) over Lhoest, the Examiner alleges that the '341 Lhoest patent discloses all the claimed elements.

The '341 Lhoest patent is directed to bottles for containing and dispensing physiological liquids for parenteral administration (Col. 1, lines 5-6). Fig. 6 (reproduced herein) illustrates an exemplary bottle according to Lhoest's disclosure.



The bottle illustrated in Fig. 6 comprises four sidewalls 1, 2, 3, 4, a base 6, an opening 5 and a handle 11 (Col. 3, lines 56-57). As illustrated, the four sidewalls and the base define an interior cavity for containing a liquid. The handle 11 is used for suspending the bottle in an inverted position before use (Col. 4, lines 15-16). The sidewalls 1 and 3 are flat; and the sidewalls 2 and 4 comprise grooves 7 and 8 (Col. 3, lines 58-59). The base 6 also comprises a groove 9 (Col. 3, line 61). The grooves on the sidewalls 2, 4 and the base 6 allow the sidewalls and the base to join together when the bottle is subjected to either an internal or external pressure (Col. 2, lines 9-14). As illustrated and as described above, when the bottle

collapses, the base 6 moves inwardly to join the sidewalls. Thus, the '341 Lhoest patent does not disclose a molded container wherein portion of the external wall surface of the bottom wall moves outwardly away from the interior cavity from a first position to a second position further outwardly when the container collapses, as recited in part in claim 19.

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Accordingly, as the '341 Lhoest reference fails to disclose each and every element of the pending claim, it also fails to anticipate claim 19 under § 102(b). As claims 23 depends from claim 19, it too is allowable for at least the same reason.

To the extent the handle 11 in the Lhoest container is relied on to disclose an outwardly extending bottom wall, the handle 11 is NOT the same as the claimed bottom wall nor can it be considered together with the sidewalls to define an interior cavity.

§ 103(a) Rejection of Claims 29-40 by Kasboske in view of Schafer

In rejecting claims 29-40 as being unpatentable over Kasboske in view of Schafer, the Examiner relies on Kasboske to "disclose substantially all the structure and functionality of the invention; however the Kasboke reference lacks the perform [sic] of the container being a multi-layer perform [sic] consisting of an overall wall thickness" (Office Action, page 3). The Examiner relies on Schaefer to teach a container having a multi-layer preform (Office Action, page 3).

Of the rejected claims, amended independent claim 29 recites:

29. (Currently Amended) A method for manufacturing a molded standing container for infusion liquids comprising the steps:
extruding a preform of a polymer material; and
expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

Thus, claim 29 is directed to a method for manufacturing a molded standing container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

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As set forth above, when the container 10 of Kasboske collapses, the V shaped recesses of the bottom wall 17 collapse against each other in a lateral direction. The bottom wall 17 remains at a same distance relative to the storage space 16 of the container 10. In other words, no part of the bottom wall 17 moves radially away from the storage space 16 from a first position to a second position further away when the container collapses. Thus, the '712 Kasboske patent does not disclose a method for manufacturing a molded standing container for infusion liquid comprising in part the step of expanding the preform by blow molding to form the container, the container comprising, among other things, a bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses, as recited in part in claim 29.

As the '053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the '712 Kasboske reference. Even if combinable, a position that Applicant does not concede, the cited references of Kasboske and Schaefer still fail to disclose all the elements and limitations of claim 29. At a minimum, the cited references do not disclose a method for manufacturing a molded standing container for infusion liquids, comprising in part the step of expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a fold line comprising a weakened portion configured so that portions of the bottom wall move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses, as recited in part by claim 29. Thus, the cited references fail to render claim 29 obvious under § 103(a). As claims 30-37 depend from claim 29, they too are allowable for at least the same reason.

Of the other rejected claims, amended independent claim 38 recites:

38. (Currently Amended) A molded container for liquid infusion, said container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising an exterior surface and an interior surface, and a shoulder portion of reduced cross-section forming a discharge end; said plurality of side

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walls comprising means for collapsing at least two of said side walls; and said bottom wall comprising means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses.

Similar to claim 19, claim 38 is directed to a molded container which comprises a plurality of side walls and a bottom wall defining an interior cavity. Claim 38 makes clear that the bottom wall comprises means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses.

As set forth above, the bottom wall 17 of the Kasboske container remains at the same distance relative to the storage space 16. No part of the bottom wall 17 moves outwardly away from the storage space 16 from a first position to a second further outward position. As described, the bottom wall 17 of the Kasboske container does not comprise means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses, as recited in part by claim 38.

As the '053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the '712 Kasboske reference. Even if combinable, a position that Applicant does not concede, the cited references of Kasboske and Schaefer still fail to disclose all the elements and limitations of claim 38. At a minimum, the cited references do not disclose a molded container for liquid infusion, the container comprising in part a bottom wall comprising means for folding such that portions of the exterior surface move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position when the container collapses, as recited in part by claim 38. Thus, the cited references fail to render claim 38 obvious under § 103(a). As claims 39-40 depend from claim 38, they too are allowable for at least the same reason.

§ 103(a) Rejection of Claim 41 by Kasboske in view of Schaefer and further in view of Larkin

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In rejecting claim 41, the Examiner relies on Kasboske in view of Schaefer to “disclose substantially all the structure and functionality of the invention, however, [] both references lack two ports at the discharge end of the container”. The Examiner relies on Larkin to teach a container for liquids having a discharge end consisting of two ports. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify Kaboske container in view of Larkin to come up with the claimed container. (Office Action, page 4).

Claim 41 depends from claim 38. As set forth above, the cited references of Kasboske and Schaefer fail to render claim 38 obvious for not disclosing all the elements and limitations of the pending claim. As Larkin is merely relied on to disclose a discharge end with two ports, Larkin does not cure the deficiencies of Kasboske and Schaefer. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 38 obvious under § 103(a). As claim 41 depends from claim 38, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 27 by Kasboske in view of Larkin

In rejecting claim 27, the Examiner relies on Kasboske to “disclose substantially all the structure and functionality of the invention, however, the Kasboske reference lacks a container with a port having a pierceable membrane”. The Examiner relies on Larkin to teach a container for liquids having a discharge end having at least one port with a pierceable membrane. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify Kaboske container in view of Larkin to come up with the claimed container. (Office Action, page 5).

Claim 27 depends from claim 19. As set forth above, the ‘712 Kasboske reference fails to anticipate claim 27 since it fails to disclose each and every element of the pending claim. As Larkin is merely relied on to disclose a discharge end having at least one port with a pierceable membrane, Larkin does not cure the deficiencies of Kasboske. Among other things, even if

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combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 19 obvious under § 103(a). As claim 27 depends from claim 19, it too is allowable for at least the same reason.

New claim 42:

Newly added claim 42 depends from claim 19. As set forth above, Kasboske and Lhoest fail to disclose each and every element of claim 19 and thus fail to anticipate claim 19 under § 102 (b). As claim 42 depends from claim 19, it too is allowable over the cited references for at least the same reason.

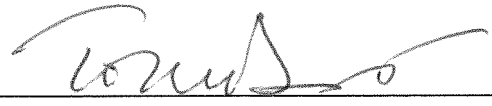
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CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 19-42 are patentable over the cited prior art and a notice of allowance is respectfully solicited.

Should the Examiner find it necessary to speak with Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number identified below.

Respectfully submitted,
KLEIN, O'NEILL & SINGH, LLP

By 
Tom H. Dao
Reg. No. 44,641
949-955-1920

THD/bcp/mxl